

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

JOSE PENA,

Petitioner,

CASE NO. 2:06-cv-545

JUDGE FROST

MAGISTRATE JUDGE KEMP

v.

DEBORAH TIMMERMAN-COOPER, Warden,

Respondent.

**OPINION AND ORDER**

On November 15, 2006, the Magistrate Judge issued a *Report and Recommendation* recommending that the instant petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254 be dismissed without prejudice as unexhausted. Doc. No. 9. Although the parties were specifically informed of their right to object to the *Report and Recommendation*, and of the consequences of their failure to do so, there has nevertheless been no objection to the *Report and Recommendation*.

The *Report and Recommendation* is hereby **ADOPTED AND AFFIRMED**. This case is **DISMISSED**.

**IT IS SO ORDERED**

/s/ Gregory L. Frost  
GREGORY L. FROST  
United States District Judge